

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

BRAD SNYDER
239 11th St SE
Washington, DC 20003,

Plaintiff,

v.

U.S. DEPARTMENT OF STATE
2201 C St. NW
Washington, DC 20520,

Defendant.

Civil Action No. 19-CV-03045

COMPLAINT FOR DECLATORY AND INJUNCTIVE RELIEF

1. Georgetown University Law Center Professor Brad Snyder brings this action under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, to compel the U.S. Department of State (“State Department”) to release records relating to his forthcoming biography of Supreme Court Justice Felix Frankfurter.

Jurisdiction

2. This Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B).

Parties

3. Plaintiff Professor Brad Snyder is a legal historian and the author of three critically acclaimed books: *The House of Truth: A Washington Political Salon and the Foundations of American Liberalism* (Oxford University Press, 2017), *A Well-Paid Slave: Curt Flood’s Fight for Free Agency in Professional Sports* (Viking, 2006), and *Beyond the Shadow of the Senators:*

The Untold Story (McGraw Hill Professional Publishing, 2000). He has also published articles in numerous law reviews.

4. Defendant State Department is a federal agency within the meaning of 5 U.S.C. § 552(f).

The State Department is in possession and control of the records sought by Professor Snyder.

Facts

5. Professor Snyder is writing a biography of Supreme Court Justice Felix Frankfurter. As part of his research, Professor Snyder is seeking to obtain information regarding two of Frankfurter's proteges, David K. Niles and Max Lowenthal.

6. Niles was President Harry Truman's aide in charge of minority affairs. During Niles' tenure in this position, he challenged the State Department's policies on Jewish immigration to Palestine and the recognition of a Jewish state.

7. Lowenthal was a longtime FBI critic and opponent of wiretapping. In 1950, Lowenthal published a book, "*The Federal Bureau of Investigation*", criticizing President Herbert Hoover and the FBI. As a result of this criticism, Lowenthal was called before the House Un-American Activities Committee and charged with aiding and abetting Communists.

8. The State Department possesses records pertaining to both Niles and Lowenthal.

9. By letter dated June 1, 2018, Professor Snyder, through counsel, submitted a FOIA request to the State Department seeking the production of all records pertaining to either Niles or Lowenthal.

10. By letter dated July 27, 2018, the State Department acknowledged receipt of Professor Snyder's request.

11. To date, the State Department has failed to respond substantively to Professor Snyder's FOIA request.

Claim for Relief

12. Plaintiff has a statutory right under FOIA for the records that he seeks and there is no legal basis for Defendant's refusal to disclose them to Plaintiff.

13. FOIA requires the State Department to comply with Professor Snyder's request within twenty business days. 5 U.S.C. § 552(a)(6)(A)(i).

14. More than twenty business days have elapsed and Defendant has not responded substantively to Professor Snyder's FOIA request.

15. The Defendant has therefore violated Professor Snyder's right to access agency records under FOIA. 5 U.S.C § 552(a)(3)(A).

Prayer for Relief

WHEREFORE, Plaintiff respectfully requests that this Court enter an order:

- (a) Declaring that Defendant's failure to respond to Plaintiff's FOIA request within the statutory time limit unlawful;
- (b) Directing the Defendant to disclose the requested records without further delay;
- (c) Awarding Plaintiff attorney's fees and other litigation costs reasonably incurred in this action; and
- (d) Granting Plaintiff such other relief as the Court deems just and proper.

Dated: October 11, 2019

Respectfully submitted,

/s/ Rachel L. Fried

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